

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 ANGEL M. MEDINA-AYALA,

7 Defendant.
8
9

Criminal No. 12-665-01 (JAF)

10 **OPINION AND ORDER**

11 Before the court is Defendant Angel Medina-Ayala's motion to dismiss counts two
12 and three of his indictment. (Docket No. 23.) The government opposes. (Docket No. 24.)
13 Defendant does not respond.

14 **I.**

15 **Factual and Procedural History**

16 On September 12, 2012, a federal grand jury returned a four-count indictment
17 charging Defendant, Angel M. Medina-Ayala, with one count of violating 18 U.S.C.
18 § 2251(a) (production of child pornography (Count One)); two counts of violating 18
19 U.S.C. § 2423(a) (transportation of a minor with the intent to engage in criminal sexual
20 activity (Counts Two and Three)); and one count of violating 18 U.S.C. § 2252(a)(4)(B)
21 (possession of child pornography (Count Four)) (the "Indictment"). (Docket No. 14.)

22 On November 1, 2012, Defendant moved to dismiss counts two and three of the
23 indictment, arguing that the statute giving rise to those charges, 18 U.S.C. § 2423 (the

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1 “Mann Act”), does not apply to Puerto Rico. (Docket No. 23 at 3.) The Government filed
2 its opposition to Defendant’s motion on November 20, 2012. (Docket No. 24.) Defendant
3 claims that the Mann Act, which is the statutory basis for his indictment, does not apply to
4 Puerto Rico. We disagree and deny the motion.

5 II.

6 Law and Analysis

7 Defendant challenges his indictment by arguing that 18 U.S.C. § 2423, the “Mann
8 Act,” does not apply to Puerto Rico. We disagree.

9 Enacted in 1910, the Mann Act originally prohibited, among other things, the
10 interstate transportation of women for purposes of prostitution, “debauchery”, or “any other
11 immoral purpose.” See Ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C.
12 §§ 2421-2424 (2000)). The current version of the Mann Act makes it a federal crime to
13 knowingly transport (1) a minor, with the intent that the minor engage in prostitution or
14 prohibited sexual conduct, or (2) “any individual” with the intent that the individual engage
15 in prostitution or “any sexual activity for which any person can be charged with a criminal
16 offense.” 18 U.S.C. §§ 2421-24 (2006). The Mann Act currently contains four sections,
17 each of which punishes a different activity connected with prostitution, illicit sexual
18 conduct, and travel.

19 Defendant requests that we treat the Mann Act in the same manner that Section Three
20 of the Sherman Act was treated in the case of Cordova & Simopietri Insurance Agency v.
21 Chase Manhattan Bank N.A., 649 F.2d 36 (1st Cir. 1981). In Cordova, the First Circuit held

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1 that the passage of the Puerto Rican Federal Relations Act, 64 Stat. 319, meant that certain
2 federal acts which applied to activities within “any territory,” but not within states, no
3 longer applied to Puerto Rico. 649 F.2d at 38. The court reasoned that once Puerto Rico
4 became a commonwealth, it ceased being a territory of the United States: “In sum, Puerto
5 Rico's status changed from that of a mere territory to the unique status of Commonwealth.”
6 Id. Therefore, the court held that Section Three of the Sherman Act, which forbade
7 agreements “in restraint of trade or commerce in any Territory of the United States,” did not
8 apply to Puerto Rico. Id.

9 We reject the Defendant’s contention that the Mann Act has no application to Puerto
10 Rico because the Mann Act, unlike the Sherman Act, explicitly applies to
11 “commonwealths.” This is a question of basic statutory interpretation.

12 It is a well-established principle of law within the First Circuit that “[w]hether and
13 how a federal statute applies to Puerto Rico is a question of Congressional intent.” Antilles
14 Cement Corp. v. Fortuño, 670 F.3d 310, 320 (1st Cir. 2012); see also, Puerto Rico v. Shell
15 Co., 302 U.S. 253, 258 (1937) (meaning of a statute is to be “construed if reasonably
16 possible to effectuate the intent of the lawmakers”). If the language of a statute or
17 regulation has a plain and ordinary meaning, we need look no further and should apply the
18 regulation as it is written. See, e.g., United States v. Ron Pair Enters., Inc., 489 U.S. 235,
19 241-42 (1989) (plain meaning should be conclusive except in “rare cases [in which] the
20 literal application of a statute will produce a result demonstrably at odds with the intentions
21 of its drafters”).

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Here, we need only review the plain language of 18 U.S.C. § 2423 which provides, in pertinent part, the following:

(a) Transportation with intent to engage in criminal sexual activity.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than ten years or for life.

Protection of Children from Sexual Predators Act, 105th Cong. §2423(a) (1998).

Prior to 1999, Section 2423 did not provide coverage for transportation that occurred exclusively within “any commonwealth.” Prior to the 1998 Amendment, Section 2423 read as follows:

(a) Transportation with intent to engage in criminal sexual activity.—A person who knowingly transports an individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined or imprisoned not more than ten years, or both.

In 1998, the text of Section 2423 was specifically amended to include the word “commonwealth.” See 144 CONG. REC. S12257-01 (daily ed. Oct. 9, 1998) (statement of Sen. Daniel Coates). There could hardly be a clearer intention of purpose than the specific addition of the word “commonwealth” to the existing language of the Mann Act.

There is no question that Puerto Rico is a commonwealth— it is not a state, nor is it a territory. See 48 U.S.C. § 734. The Mann Act, as amended in 1998 and in every

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1 subsequent version, specifically applies to “commonwealths.” Therefore, the Mann Act
2 applies to Puerto Rico and Defendant’s indictment should not be dismissed.

3 **III.**

4 **Conclusion**

5 For the foregoing reasons, we hereby **DENY** Defendant's motion to dismiss counts
6 two and three of the indictment.

7 **IT IS SO ORDERED.**

8 San Juan, Puerto Rico, this 30th day of November, 2012.

9 s/José Antonio Fusté
10 JOSE ANTONIO FUSTE
11 United States District Judge